

STATE OF MICHIGAN
COURT OF APPEALS

UNPUBLISHED
December 15, 2011

In the Matter of CARTER/CODY, Minors.

No. 303321
Wayne Circuit Court
Family Division
LC No. 09-487691

Before: MURPHY, C.J., and JANSEN and OWENS, JJ.

PER CURIAM.

Respondent appeals as of right the trial court's order terminating her parental rights to the two minor children pursuant to MCL 712A.19b(3)(c)(i), (g), and (j). We affirm.

To terminate parental rights, the trial court must find that at least one of the statutory grounds for termination was established by clear and convincing evidence and that termination is in the best interests of the children. MCL 712A.19b(3) and (5); *In re Vandalen Minors*, __ Mich App __; __ NW2d __, issued June 16, 2011 (Docket Nos. 301126 and 301127), slip op at 9. The trial court's decision to terminate parental rights is reviewed for clear error. MCR 3.977(K); *In re Trejo Minors*, 462 Mich 341, 355-357; 612 NW2d 407 (2000).

Termination of parental rights was proper under MCL 712A.19b(3)(c)(i) and (g). At the time of the adjudication, respondent had a history of substance abuse, was without suitable, independent housing, and had not demonstrated emotional stability. By the time of the termination hearing, respondent was still unable to demonstrate that she could remain drug free. Respondent gave birth to a third child, who is not at issue in this appeal, during the pendency of this case, and the new baby tested positive for cocaine. This was after respondent had completed drug treatment, and she did not subsequently participate in another drug treatment program. Respondent failed to regularly submit drug screens as was required by her treatment plan and missed 68 drug screens from January 2010 until March 2011. In addition to her ongoing substance abuse, respondent's inability to provide proper care for her children was further evidenced by her inconsistency with parenting time. She was offered 85 visits while her children were in protective care but missed 43 visits. Moreover, respondent's contact with the caseworker was sporadic, and she never demonstrated the ability to obtain or maintain suitable housing. Respondent's emotional stability was also questionable. She did not participate in a psychological evaluation because the Juvenile Assessment Center was unable to contact her. Although she participated in individual therapy through Positive Images, it was recommended that she follow up with more therapy, but she never did. Thus, the court did not clearly err in terminating respondent's parental rights under MCL 712A.19b(3)(c)(i) and (g).

Despite respondent's assertions that she was able to provide a safe home, her ongoing substance abuse posed a serious risk of harm to the children for purposes of MCL 712A.19b(3)(j). Respondent cannot be an active drug abuser and safeguard her children from harm. A parent must benefit from the services offered so that he or she can improve parenting skills to the point where the children would no longer be at risk in the parent's custody. *In re Gazella*, 264 Mich App 668, 676; 692 NW2d 708 (2005). Thus, the trial court properly found that respondent was unable to provide proper care and custody and that the children would be exposed to a risk of harm in her care. The court did not clearly err in terminating respondent's parental rights under MCL 712A.19b(3)(j).

The trial court also did not clearly err in its best-interest determination, given that respondent was unable to care for her children and provide them with stability. Although respondent argues that the trial court should have given her another chance to overcome her substance abuse, her addiction was longstanding and serious and would not be overcome quickly or easily. Moreover, there was no evidence that respondent has the capacity or disposition to provide for the children's basic needs. Respondent did not demonstrate a commitment to her children by visiting them regularly, and she was unable to maintain suitable housing. Termination of parental rights was in the children's best interests because these young children needed permanence and stability, which respondent could not provide in the near future.

Finally, the trial court did not abuse its discretion in denying respondent's request for an adjournment of the continued termination hearing. *In re Utrera*, 281 Mich App 1, 8; 761 NW2d 253 (2008). MCR 3.923(G) provides:

Adjournments of trials or hearings in child protective proceedings should be granted only

- (1) for good cause,
- (2) after taking into consideration the best interests of the child, and
- (3) for as short a period of time as necessary.

A legally sufficient or substantial reason must be shown in order for a trial court to find good cause for an adjournment. *Utrera*, 281 Mich App at 10-11. Respondent failed to establish that she requested the adjournment for a reason other than that she chose not to attend. She failed to contact her attorney or the trial court with an explanation for her absence. Respondent was in attendance for the first day of the termination hearing. At the end of the first day, a Friday, the trial court adjourned the hearing until the following Monday morning, and respondent had actual notice of the continued hearing date. Thus, absent a legally sufficient or substantial reason to adjourn the hearing on Monday, the trial court did not abuse its discretion when it denied respondent's attorney's motion to adjourn.

Affirmed.

/s/ William B. Murphy
/s/ Kathleen Jansen
/s/ Donald S. Owens